

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

DONALD PORTER, Derivatively on )  
Behalf of GMX RESOURCES INC., )  
                                       )  
Plaintiff, )  
v.                                     ) Case No. CIV-11-890-D  
                                       )  
KEN L. KENWORTHY, et al., )  
                                       )  
Defendants, )  
                                       )  
and                                 )  
                                       )  
GMX RESOURCES INC., )  
                                       )  
Nominal Defendant. )  
                                       )  
                                       )  
RONALD ZERR, Derivatively on Behalf )  
of GMX RESOURCES, )  
                                       )  
Plaintiff, )  
v.                                     ) Case No. CIV-12-313-D  
                                       )  
KEN KENWORTHY, et al., )  
                                       )  
Defendants, )  
                                       )  
and                                 )  
                                       )  
GMX RESOURCES, )  
                                       )  
Nominal Defendant. )

**ORDER**

Before the Court are the parties' joint motions, filed in two derivative shareholder actions, Case Nos. CIV-11-890-D [Doc. No. 37] and CIV-12-313-D [Doc. No. 8]. The parties' motions ask the Court to consolidate the two actions, and to stay both actions pending certain Court rulings in *Northumberland County Retirement System, et al., vs. GMX Resources, Inc., et al.*, Case No. CIV-

11-520-D. The parties also propose certain other actions with respect to discovery and other matters related to the two derivative shareholder actions.

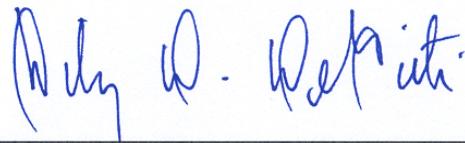
The parties' motions are granted in part. To the extent the parties seek consolidation and a stay of the two cases, the motions [Doc. Nos. 37 and 8] in the respective cases are GRANTED. The Court's Electronic Filing System requires that one of the two cases be closed in order to effect the consolidation of all future pleadings under one case number. Accordingly, Case No. CIV-12-313-D is hereby closed. All future pleadings and submissions in Case Nos. 11-890-D and 12-313-D shall be filed in Case No. 11-890-D.

The consolidated derivative shareholder actions are hereby stayed pending the Court's ruling on the motions to dismiss filed in *Northumberland County Retirement System, et. al. vs. GMX Resources, Inc., et al.*, Case No. CIV-11-520-D ("Northumberland"). Not later than 21 days following the Court's ruling on those motions, the parties to the consolidated actions shall file a joint motion to lift the stay in the consolidated action. In the interim, pursuant to the parties' agreement, Plaintiffs in the consolidated actions shall be entitled to receive any discovery produced by Defendants in *Northumberland*, whether formally or informally, and Plaintiffs in the consolidated actions will be allowed to participate in any mediation that may take place while the consolidated actions are stayed.

The Court finds premature certain other actions requested by the parties in their joint motions and proposed orders. As soon as practicable following the Court's ruling on the motions to dismiss in *Northumberland*, the Court will schedule a status conference in these consolidated derivative actions, and deadlines for the consolidated cases will be established at that time. At the status conference, the propriety and practicality of the other procedural proposals in the parties' stipulation

and proposed order will also be discussed.

IT IS SO ORDERED this 11<sup>th</sup> day of May, 2012.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE